

**COMMISSION ON VASAP
QUARTERLY MEETING**

March 24, 2023

Minutes

Attendance:

Commission Members:

Mr. John L. Saunders, Vice Chairman
Delegate Wren M. Williams
The Honorable Gino W. Williams
The Honorable George D. Varoutsos
The Honorable Mary Jane Hall
Ms. Pat Eggleston
Ms. Krystal Hulette
Ms. Tara Smith

Teleconference:

Senator Scott A. Surovell
Delegate James A. Leftwich, Jr.

Absent:

Senator Richard H. Stuart, Chairman
Delegate Timothy V. Anderson
Delegate Don L. Scott, Jr.
Ms. Margaret Steele

Commission Staff

Ms. Angela Coleman, Executive Director
Ms. Rosario Carrasquillo
Ms. Shelby Edwards
Mr. Glen Miller
Mr. Christopher Morris
Ms. Charlene Motley
Mr. Richard Phillips
Ms. LeAnne Turner

Office of the Attorney General

Ms. Janet Baugh

Time and Place

The quarterly meeting of the Commission on Virginia Alcohol Safety Action Program (VASAP) was conducted in Senate Committee Room A of the Pocahontas Building in Richmond, Virginia on March 24, 2023, at 10:00 a.m.

Mr. John Saunders, Vice Chairman, presided and called the meeting to order at 10:06 a.m. Commission members and staff introduced themselves.

Approval of the Minutes

The Honorable Mary Jane Hall moved, and Delegate Wren M. Williams seconded the motion that the minutes from the December 9, 2022, Commission meeting be approved.

Alexandria ASAP Update

Mr. Rohan Williams, Director of Peninsula ASAP, provided an update on Alexandria ASAP. Mr. Williams introduced two members of his staff, Dr. Gjxiannah Conway and Ms. Kailee Edwards. Mr. Williams stated the goal set in November 2022 was to maintain uninterrupted services to the city while they embarked on implementing a sustainable program. Since then, they have worked towards fostering a relationship with the City of Alexandria built on a partnership to develop a long-term viable solution. Mr. Williams shared, while working with the Commission staff, they were able to establish relationships to include clear lines of communication with the city manager's office, the commonwealth attorney's office, the public defender's office, and the court. Mr. Williams provided positive figures regarding class completion. From August 1, 2022, through December 31, 2022, they saw an 82% completion rate for Treatment Education and 86% for Intensive Education.

Mr. Williams introduced Ms. Sarah Taylor, Alexandria's Assistant City Manager, to speak to their combined success. Ms. Taylor thanked Mr. Williams and his team for what they were able to accomplish in Alexandria in a short period of time. Ms. Taylor stated the City of Alexandria is looking forward to partnering with Alexandria ASAP to link clients to additional resources in the city that may be of relevance. Ms. Taylor reports the Alexandria City Manager's Office has identified contingency funding that is available once it is determined what Mr. Williams needs to

maintain a fully staffed and sustainable program moving forward. Ms. Taylor thanked Mr. Williams and the Commission for stepping in when it was needed.

Mr. Saunders expressed appreciation to Mr. Williams for his professional and comprehensive updates. Ms. Angela Coleman, on behalf of the state office, also expressed appreciation to Mr. Williams, his team and Ms. Taylor for their efforts to allow the citizens of Alexandria to maintain access to necessary ASAP services. Ms. Coleman stated this served as a template, and she is glad it was successful. The Commission staff looks forward to forming stronger partnerships that will allow for ASAPs to be strong in their communities and have a positive impact on highway safety.

Judge Varoutsos asked about office staffing. Mr. Williams advised that with the use of technology, the office is in regular communication with the courts, commonwealth attorney office and the city manager's office. Citizens of the City of Alexandria are receiving the same quality of service as Peninsula ASAP. Mr. Williams reported with the additional funding from the City of Alexandria the goal is to fully staff the Alexandria ASAP office. Ms. Taylor expressed gratitude that the Alexandria ASAP office reflected on the needs of the area when hiring staff.

Update of SB841 & HB2370

Senator Surovell provided an update regarding SB841 & HB2370. Senator Surovell reported both bills passed, and he does not anticipate any issues when it comes to the Governor signing those bills.

Executive Director's Report

Ms. Coleman presented the Executive Director's report.

Ms. Coleman reported that since the last meeting the Commission staff has been busy meeting with policy boards, training new directors, case managers and office staff as well as developing and rolling out a new budgeting system and working on enhancing the case management database. Ms. Coleman reminded program directors that budgets are due soon.

Ms. Coleman shared that the Commission on VASAP was invited to the Virginia Wine Expo for the third year. The Commission on VASAP was the only non-retail vendor in attendance. Ms. Coleman stated VASAP's booth served as a reminder to those in attendance to drive sober in an effort to prevent impaired driving. The staff handed out chapsticks, hand sanitizers, key chains, coasters, wine charms and bracelets all with the message of "Drive Sober." Ms. Coleman shared upcoming community events that VASAP will be a part of including the Ashland Strawberry Faire and Hermitage High School's prom. Ms. Coleman strongly encouraged the local ASAPs to reach out to their own communities regarding prevention efforts.

Ms. Coleman announced that this year's training conference will be held at the Omni Richmond Hotel. Check in will be on Tuesday, August 8, 2023. The conference is mandatory with intensive training and national speakers.

Ms. Coleman presented the Ignition Interlock Summary Report. Judge Mary Jane Hall asked how the numbers were trending. Mr. Morris reported that the numbers are trending upwards. Delegate Wren Williams requested the trending data be reflected on the Ignition Interlock Summary Report. Mr. Morris stated he would include it in future reports.

Mr. Saunders encouraged all those who can to attend the VASAP Annual Training Conference. He thanked Ms. Coleman and the Commission staff for the excellent job they do each year on the conference.

ASAP Partnership Forum

Ms. Jennifer McVeigh, Director of Old Dominion ASAP, reported the Director's Forum is designed to address recommendations as written in the VCU study. Their mission is to create standardization of processes that fall directly in line with the operational guidelines set forth by the Commission. Ms. McVeigh stated staff and clients alike should have the same ASAP experience across the Commonwealth. Ms. Ashley Cole, Director of John Tyler ASAP, reports the forum's first official meeting is today and they will continue to meet quarterly while working with the Commission to create more sustainable programs.

Intoxalock (Interlock Manufacturer) Report

Christopher Morris, Commission on VASAP Special Program Coordinator, presented an overview of the history of Intoxalock with Virginia's interlock program. Intoxalock entered the

state in 2017 and received a new contract in 2020. The current contract signed in 2020 expires June 30, 2023. Mr. Morris stated as Intoxalock grew, the Commission staff started to see some significant cracks. Mr. Morris reported multiple formal and informal meetings with Intoxalock corporate leadership and staff beginning in Spring of 2022. Mr. Morris reported a pattern of improvement for a couple months followed by a spike in issues. The most recent meeting with Intoxalock in January 2023 showed the same results.

Mr. Morris went on to list some of the issues, in no order of importance. To include widespread service issues where the Intoxalock facilities are not staffed and there is no one there to provide services. There are four known instances in Virginia where non-certified technicians from other states came into Virginia to provide installations services. Virginia interlock technicians must be certified by the Commission on VASAP, these technicians were not certified to provide services in Virginia and the installations services they provided were at the client's home. Mr. Morris pointed out that Intoxalock did take corrective action with the Maryland technician.

Mr. Morris reported that the interlock device must be hooked to the vehicle's lights and horn. This alerts law enforcement and the citizens of the Commonwealth if the individual has exceeded the fail point on an ignition interlock. With vehicle technology advancements, an alternative light source was presented by another vendor. This light source connects to the back of camera which is on the windshield. After inspection and approval by the Virginia State Police, three ignition interlock vendors implemented the light source prototype in Virginia. In the Spring of 2022, Commission staff met with Intoxalock and cited the importance of implementing the light source. Intoxalock recently put out a prototype which they are in the process of producing; however, Mr. Morris reported he wished that had occurred back in Spring 2022.

Mr. Morris spoke on Intoxalock's questionable marketing practices including flyers that encouraged ASAP directors to build Intoxalock displays in return for gift cards (coffee). Mr. Morris stated the Commission staff encourages vendors to put up their own displays in the ASAP offices; however, directors cannot receive incentives to make one display better than the other. Intoxalock immediately stopped those flyers after Commission staff were made aware.

Questionable marketing letters prompted multiple calls from defense attorneys and clients to the state office. Commission staff worked with Intoxalock, and the letter was corrected. Recently a second letter was discovered that appeared to come from a governmental entity. Intoxalock turned off their marketing, fixed their letters, and upon ASAP approval of the letters, their

marketing was turned back on. Mr. Morris pointed out that Virginia clients were not alone in their interpretation of the marketing letters as the Michigan Attorney General's Office in March issued a cease-and-desist order to Intoxalock. They stated, "Intoxalock caused stress and financial harm to residents by solicitations that were designed to resemble mail from a government or court entity."

Mr. Morris also reported Commission staff received several complaints from clients regarding violation reset fees. After researching the reset fee, Commission staff determined that fee should not have been charged in Virginia. Intoxalock was made aware and reported that those fees have been credited back to everyone charged.

Mr. Morris reported Intoxalock's use of a lease agreement contract caused a lot of work to the state office and local programs. Clients were advised by Intoxalock upon the end of their lease agreement they were required to sign a new agreement or risk being out of compliance. This prompted many clients to call the state office and their local offices where staff had to ensure them that the lease agreement did not impact their standing with the Courts, ASAP program or DMV.

Lastly, Mr. Morris reported two recent instances where an install date was entered into the TREDS system by Intoxalock when the client did not actually install the device. This caused ASAP to be under the impression that the client is driving legally when they have not yet complied with the law.

Mr. Morris cited the areas of the current contract that applied to the referenced issues with Intoxalock:

#6. Pertaining to knowingly permit a non-certified interlock technician to perform ignition interlock services in the Commonwealth who is not in their training period and not working alongside a certified technician.

#10. Pertaining to displaying a pattern of substandard customer service.

#19. Pertaining to violating provisions of the Virginia code, the most current Virginia Ignition Interlock regulations, the RFP, or the contract which negatively impacts the integrity of the Virginia Ignition Interlock program.

#20. Pertaining to failure to develop the required technological advances that allow the ignition interlock device to be connected to all vehicles in a manner that meets the requirements.

Mr. Morris expressed the state office has exhausted their available options and wants to see positive consistent results over time with permanent resolutions. Mr. Morris provided the following figures: Intoxalock currently has 1, 580 ignition interlock devices installed in the Commonwealth of Virginia. They average 94 installs and 127 removals per month. Intoxalock makes up 19.5 % of the interlock business in the Commonwealth and since November 1, 2022, their complaints make up 96% of the total ignition interlock complaints received at the state office.

Ms. Kathy Boden Holland, CEO of Intoxalock, was invited to speak. Ms. Boden Holland reports she is 100% responsible for their performance. She stated with significant growth in Virginia. Intoxalock has not made the investments required within their infrastructure to support their growth which is why cracks started to appear.

Ms. Boden Holland reported Intoxalock voluntarily suspended their direct mail to lower new installations and limited other marketing channels. She stated they are on target for Q2 delivery for the light source and that all current installations have been audited to ensure they are connected to lights and horns as required. She reported they have refreshed and changed their service center management as well as their staffing model to have greater overlap to address absences. Ms. Boden Holland reported Intoxalock also changed and improved their client communication to notify clients of any absences prior to their arrival to a facility. Ms. Boden Holland stated they have grown their recruitment strategy and filled approximately 40% of open roles with the new structure. Last month they established a new scheduling system for installations and calibrations.

Ms. Boden Holland shared that as of March 23, 2023, Intoxalock has hired a new state director who is scheduled to start in a couple of weeks. When searching for a new director they focused on hiring someone with a positive track record in customer service, technical capabilities, and leadership. Ms. Boden Holland stated Intoxalock is ensuring they are monitoring and tracking their own performance. She reported service center leadership will visit their locations each month and that the State Director will have a more active and routine schedule for making that happen. This will include in-person meetings and coaching each technician monthly.

Ms. Boden Holland stated Intoxalock has a dedicated individual who will be the first resource for Virginia clients should issues arise. This individual is cross trained and can handle a large variety of issues. Intoxalock is also cross training their North Carolina management in the event

additional coverage is needed and technicians are now using all resources available to them. Ms. Boden Holland reported service center staffing is a challenge, so they have recently started an effort to recruit and partner with technical schools to create a pipeline of talent to avoid staffing gaps. Intoxalock has also put in place a post installation and post removal survey to track issues. Ms. Boden Holland believes by May of 2023 all known gaps will be addressed and they will have a view on where they can continue to make improvements. Ms. Boden Holland apologized to the Commission that they have reached this stage and welcomed any questions.

Judge Mary Jane Hall asked how many Intoxalock locations are in Virginia. Ms. Boden Holland deferred to a member of her staff, Mr. Jeff Peck, Director of Service Centers, who responded there are 15 Intoxalock locations throughout the Commonwealth.

Delegate Wren Williams inquired to the Commission staff if there were plans for Intoxalock to attend the June meeting to provide an update on their progress. Ms. Coleman advised not at this time.

Mr. Saunders stated he was very disappointed. He reported he previously had an opportunity to meet with the Intoxalock staff and very important concerns were pointed out during that meeting. Mr. Saunders stated anything less than the gold standard, previously mention by Ms. Coleman, is unacceptable. He stated we work for the citizens of Virginia and the most important thing is that that they are taken care of in a professional manner with the highest level of integrity. Mr. Saunders stated anytime the Commission expects their integrity is in question it is very concerning. He advised Ms. Boden Holland there is only one chance to make a first impression and he does not think they have done well and that once trust is lost it is difficult to regain. Mr. Saunders reported that the Commission has a serious matter on their hands with this and that they will be taking it seriously. He finished his remarks by saying the Commission on VASAP's standards will not be lowered, policies are written, they are steadfast, and they will remain.

Executive Session

Judge Gino Williams moved pursuant to Virginia Code Section 2.2-3712, for the Commission to go into closed session to discuss matters exempt under 2.2-3711(A)(7) and (A)(8), specifically to receive legal advice from counsel regarding contracts and litigation. Delegate Wren Williams seconded the motion. All were in favor; none opposed. Mr. Christopher Morris and Mr. Richard Phillips, Ignition Interlock Technical Support Specialist, were invited into the executive session.

Judge Gino Williams moved that the board confirmed that only matters exempt under Virginia Code Section 2.2-3711 (A)(7) and (A)(8) relating to receiving legal advice from counsel were discussed during the closed meeting. Judge Mary Jane Hall seconded the motion. Ms. Coleman announced that Senator Surovell was present in the executive session but was no longer in attendance at the time of roll call. A roll call vote was conducted, all were in favor; none opposed.

Delegate Wren Williams moved to terminate Intoxalock's vendor contract with the Commonwealth of Virginia based off the number of violations to the contract as previously discussed and cited. Delegate James A. Leftwich, Jr. seconded the motion. A roll call vote was conducted, all were in favor; none opposed. Ms. Coleman advised the Intoxalock representatives in attendance that the Commission staff would be in communication with them regarding the steps moving forward.

Meeting Dates

The following Commission meeting dates are scheduled for 2023:

June 9th

September 15th

December 8th

Adjournment

Delegate Williams moved, and Judge Williams seconded, that the meeting be adjourned. All were in favor; none opposed. There being no further business, Mr. Saunders adjourned the meeting at 11:53 am.

Senator Richard H. Stuart, Chairman